

LECTURE,

9

INTRODUCTORY TO THE COURSE OF

MEDICAL JURISPRUDENCE,

DELIVERED

IN THE UNIVERSITY OF LONDON,

ON

*FRIDAY, JANUARY 7, 1831.*

BY

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OF THE ROYAL COLLEGE OF PHYSICIANS OF LONDON,  
&c. &c.

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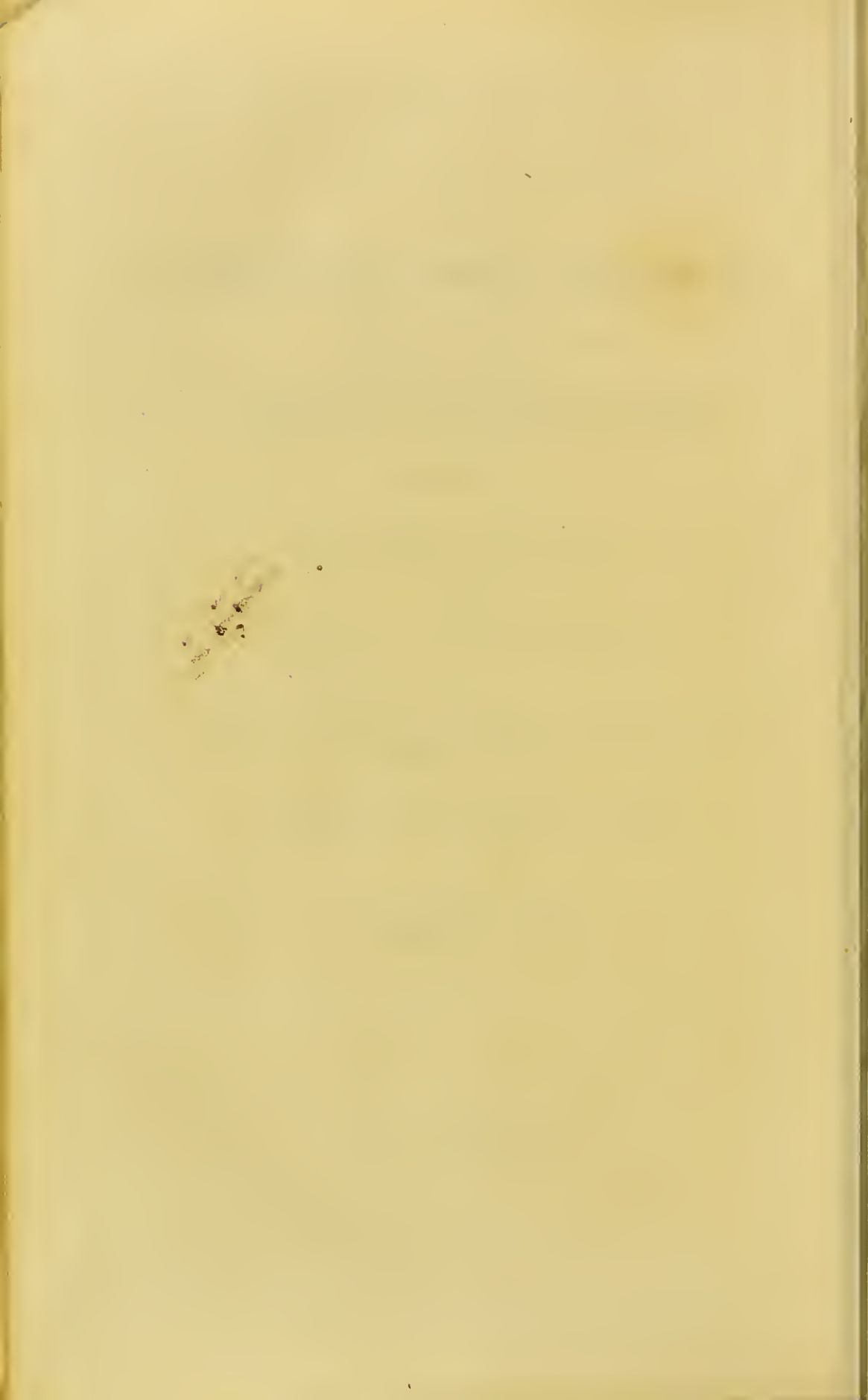
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TO  
THE WORSHIPFUL SOCIETY OF APOTHECARIES,  
WHO, BY RENDERING IMPERATIVE  
THE STUDY OF MEDICAL JURISPRUDENCE;  
AND BY DEMANDING  
SCIENTIFIC QUALIFICATIONS  
FROM  
THE CANDIDATES FOR ITS LICENCE,  
HAS JUSTLY MERITED THE GRATITUDE OF THE MEDICAL PROFESSION,  
AND OF THE PUBLIC,  
THIS LECTURE IS INSCRIBED  
BY  
THE AUTHOR.



## LECTURE,

8c. 8c.

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GENTLEMEN,

THE Council of the University having appointed me, in conjunction with the Professor of Law, to deliver a Course of Lectures on Medical Jurisprudence, this session, it has fallen to my lot to introduce the subject to your notice. When I perceive around me, amongst the medical portion of my audience, some individuals justly distinguished for the extent of their learning and scientific acquirements; others for the stores of practical information with which they have enriched themselves; when I see also, amongst my auditors, gentlemen deeply versed in the profession of the law, and imbued with the soundest legal opinions; and, moreover, when I reflect on the short space of time afforded me to prepare for the performance of the task which I have undertaken, I cannot avoid being deeply impressed by the peculiarity of the position in which I am placed. Permit me to hope, that my efforts to perform my duty will be regarded with that indulgence which springs from kindly feelings, rather than with that critical judgment, to which, under more auspicious circumstances, I should proudly submit.

Our subject, then, is MEDICAL JURISPRUDENCE. In the strict meaning of the term, Medical Jurisprudence has reference rather to the knowledge of the laws relating to medical subjects, than to these subjects themselves: but as common usage, in this country, has rendered it familiar as a generic term, comprehending both the law of medical matters, and every thing connected with such matters, as far as evidence regarding them can be required

in courts of justice; we have adopted the term as it is usually understood. It embraces both what has been denominated *Forensic Medicine*, comprhending the medical testimony and opinions necessary in legal enquiries; and *Medical Police*, which involves the consideration of the propriety of legal enactments connected with the health and comfort of the community. Important as this subject appears, on the bare statement of its objects, its study has been comparatively neglected in Great Britain; few existing practitioners of medicine or of law having attended to it as a distinct branch of knowledge; and, until the present time, the acquirement of it, as a branch of medical education, has never been considered imperative. This neglect appears the more surprising, when we reflect upon the dignified attitude in which it places Medical Science, in aiding the efforts of Justice for the detection of error and the conviction of guilt, and those of Government for the preservation of public health; when we take a retrospect of the early period in which it became a branch of legislation; when we observe, as we cannot fail to do, the necessity for the knowledge which it supplies, in the daily practice of the courts at home; and the great attention, which it has properly excited in almost every other part of Europe.

Were I to attempt to trace the history of the rise and progress of this branch of Medical Science, the result would be unsatisfactory, both on account of the paucity of materials, and the nature of the records. From the sources of information, however, which we possess, it may be surmised, that the Egyptians, who were accustomed to inspect bodies, in the art of embalming the dead which they practised with so much skill, would not overlook the aids which the knowledge thus derived might afford in forwarding the ends of justice. It is certain that Moses, who was educated in Egypt, and was skilled in all the learning of its sages, framed a code of laws for the people whom he governed, which was in a great measure a system of medical Police. In the Levitical law, we find the signs

detailed whereby the priests are to be guided in discerning leprosy and other plagues, and the means to be adopted for preventing their extension, by the imposition of regulations which may justly be considered in the light of quarantine laws. In another part of the Mosaic code, we also learn that tokens of virginity were required to repel charges of slander against female chastity; the nature of rape is distinctly defined; and modes of determining whether wounds are mortal are perspicuously described. Among the Greeks, who derived their learning and philosophy from Egypt, this branch of Medical Science was not forgotten; and we are informed that Hippocrates was frequently consulted on points connected with the public health. The low state of the healing art among the Romans; and the little attention which it excited in the early period of the history of that extraordinary people, afford us only very imperfect information respecting the cultivation of Legal Medicine in Rome. Some of their religious ceremonials were acts of Medical Police: thus whenever they proposed to build a town, or to pitch a camp, the entrails of the sacrifice were inspected by the sooth-sayer, who determined whether they were propitious; a simple act of enquiry into the medical topography of the spot, the state of the entrails of the animals fed upon it being well adapted to afford accurate grounds for founding an opinion, respecting the salubrity or insalubrity of the soil. According to the laws of Numa Pompilius, the bodies of women who died in child-bed, as well as those supposed to be pregnant; of persons who had been poisoned or conjectured to have been so; and of those who committed suicide or were murdered, were ordered to be opened and inspected. These bodies, as was also the custom in Greece, were exposed to public view in the Forum: the bleeding corpse of Cæsar was thus exhibited; and the twenty-three wounds, which he had received from the conspirators having been examined, one of them, which penetrated the cavity of the chest between the first and second rib, was pronounced by Anstadius to be the mortal

thrust. In the same manner, the body of Germanicus, who was supposed to have been poisoned by Piso, was exposed in the public place of Antioch; and although Piso was condemned on the most absurd evidence, yet the fact is sufficient to prove that legal medicine was, in some degree, virtually practised at that period. Perhaps, however, a more decisive proof may be found in the enactment of the Emperor Adrian, who, having consulted the physicians of his own time, and made himself acquainted with the opinions inculcated in the writings of Hippocrates and Aristotle, decreed that a child is legitimate when born in the eleventh month of pregnancy.

But, notwithstanding these proofs of an early attention to Legal Medicine as a branch of legislation, Forensic Medicine can scarcely be said to have been recognized, until the year of the Christian æra, 1532, when it was carried into courts of justice, by the celebrated criminal code, the "*Constitutio Criminalis Carolina*," framed by Charles the Fifth of Germany. By this constitution, medical men are ordered to be consulted, whenever death has been caused by violence, whether criminal or accidental; as well as in cases of procured abortion, infanticide and other acts. The Germans, very soon afterwards, issued the first of the numerous writings which they have sent forth on the application of medicine in support of the laws. About the time of Francis the First, medical learning began to be applied to jurisprudence in France: but it was not until 1545 that medical evidence was ordered to be obtained in certain legal investigations. "One may judge," says Fœdcré, "of the melancholy state in which credulity had plunged jurisprudence, and the service which medicine rendered to it, by the following report of Pigray, Surgeon of Henry the Third, and a cotemporary of Ambrose Paré. 'The Parliament of Paris, being removed to Tours in 1589, appointed M. le Roi, Falaisen and Renard, Physicians to the King, and myself, (M. Pigray,) to visit forty persons, men and women, who were condemned to death,

“ on an accusation of sorcery. We made our visitation in  
 “ the presence of two counsellors of the court. We saw  
 “ the report of the evidence on which these persons had  
 “ been convicted. I do not know either the capacity or  
 “ the fidelity of those who reported ; but we found nothing  
 “ of what they had stated. Among other things it was  
 “ asserted that they were insensible in certain parts of their  
 “ bodies : we examined them carefully, in the state of  
 “ nudity, forgetting nothing which was requisite to ascer-  
 “ tain the fact : they were pricked in many places and  
 “ felt most acutely. We interrogated them on many  
 “ points, as in cases of insanity ; but found that they were  
 “ only poor stupid people, some indifferent about dying,  
 “ others desiring to die. We advised them rather to be  
 “ purged with hellebore than punished. The court dis-  
 “ charged them according to our advice.”\*

In 1606, Henry the Fourth of France gave letters patent to his principal physician, conferring upon him the right of appointing two surgeons in each town, and one in less considerable places, exclusively for the purposes of Medical Police, to examine wounds, mutilations, and the bodies of those found dead ; and in 1650, similar appointments were made in Italy. As yet, however, legal medicine had not yet been taught as a distinct branch of medical education ; and the first public lectures on this subject were delivered, in the early part of the eighteenth century, by Professor Louis, Secretary to the Royal Academy of Surgery in Paris. The example thus set was followed by the appointment of several Professorships of Medical Jurisprudence, in France, Italy and Germany. I deem it unnecessary to mention the valuable works of French writers on this subject : they have been produced by men of the highest talents, from the Reports of Ambrose Paré, the most celebrated of the French surgeons, published in 1575, to the

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\* *Chirurgie de Pigray*, liv 7. chap. 10. p. 445. quoted by *Fœderé*, *Médecine Legale*, Introd. p. xxxi.

voluminous Treatise of Professor Fœderé, which was published in 1813; and the Lectures on the Toxicological part of a Course of Legal Medicine by *Orfila*, which appeared in 1821. To the student, the array of numerous works on professional subjects is rather appalling than encouraging: many of them, indeed, as Dr. Elliotson justly remarks, in his published Lecture introductory to a Course upon State Medicine, “are little more than copies and compilations “from others, and the real good that exists in them all is “to be found in the best modern treatises.”

Great Britain, as I have already stated had been comparatively backward in following the example of the continental nations in the cultivation of legal medicine. I will not attempt to trace the causes of this neglect: an answer to the charge has been offered to the world, in the introduction to the valuable work on Medical Jurisprudence published in 1823, the joint production of Dr. Paris, and of Mr. Fonblanque, an eminent barrister. Without looking into these reasons, I will merely state the fact that no professorship on Medical Jurisprudence existed in this country, until 1803, when the late Dr. Duncan, was appointed Regius Professor of this branch of medicine, in the University of Edinburgh; and no professorship existed in England, until one was appointed by the council of this University. This chair is now vacant, on which account the course of lectures, which I have the honour of introducing to your notice, has been ordered to be delivered this session; with the view of enabling the Students of this establishment to comply with the regulations of the Society of Apothecaries:—that corporate body, with praiseworthy solicitude for the improvement of the general practitioner, requiring a course of Medical Jurisprudence, as a part of the qualifications of a candidate for a licence to practice as an apothecary in England and Wales.

From this imperfect sketch of the History of Medical Jurisprudence, its importance, and the high estimation in which it is held by civilized nations, are very obvious;

but, if any proof be desired of the utility of its study, in addition to the numerous pursuits of the Medical and the Legal Student, we have only to look into the ordinary proceedings of our courts of justice, civil, criminal, and consistorial, to be convinced that the fate of our fellow men, their fortunes, honour and reputation; the protection of the innocent; the conviction of the guilty; the personal liberty of individuals; their lives; and consequently the general welfare of the community ought not to be permitted to rest on the medical evidence usually delivered on trials, nor on the manner in which attempts are made to elicit the truth from that evidence. To check the disgrace thus daily reflected on the medical profession is an effort which entitles the Company of Apothecaries to the grateful thanks of the public; and places them in the dignified situation of the real patrons of medicine.

If we admit the importance of Medical Jurisprudence, this question naturally presents itself—what are the qualifications necessary to constitute a Medical Jurist? Were I, in reply, to sketch out this character, in its most perfect form, there is scarcely a single point in the circle of science with which he ought not to be familiar: but the picture would be a creation of the fancy, the realization of which it would be vain to hope ever to see accomplished. I will, therefore, endeavour to depict it as it may exist, both in the medical practitioner and in the lawyer; and as it should comprise equally the moral attributes, and the professional acquirements of the man. Before entering into these details, let us briefly review the duties likely to be imposed upon the physician and the lawyer as medical jurists; upon the one as a witness, upon the other as a counsel, in any legal enquiry, or trial, involving medical evidence.

In addressing myself to the Medical Student and to the young practitioner, I would say, always remember that, in cases of sudden or of violent death, your evidence will be first required before the Coroner to ascertain its cause.

Recollect that, in this enquiry, upon your opinion will rest the verdict, whether death has occurred in the ordinary course of natural events, or whether it be the result of suicide or of murder; that, on your statement may depend the fate of a fellow-citizen;—whether an accused person be restored, with a character pure and unstained, to the bosom of his family and the circle of his friends and to society, or be immured in a prison, to await his trial, and perhaps the judgment of the violated laws. Reflect, that, in the execution of this deeply responsible duty, the coroner's jury is generally composed of uneducated men; that your evidence, therefore, should be delivered as perspicuously as possible, devoid of technical language, and free from every appearance of hypothetical character, or from whatever may tend to obstruct the avenues to truth, and interfere with the administration of impartial justice. I might here, venture to digress and examine the question which has lately been much discussed, whether the Coroner ought to be a medical man? I confess that I have not sufficiently reflected on this subject to hazard a very decided opinion; but, in the point of view in which I have regarded it, I am of opinion that the duties connected with this office are incompatible with those of a medical man in the practice of his profession; that the legal part of the character of Coroner is at variance with his usual habits; and that that part of the writ *de Coronatore exonerando*, which states that a Coroner may be discharged for negligence, or insufficiency, in the discharge of his duty, and when so far engaged in other business that he cannot attend the office, would be frequently inflicted upon the Medical Coroner. In offering this opinion, however, I do not mean to contend that the knowledge possessed by the Coroner should be simply that of a lawyer: he ought to be acquainted with Medical Jurisprudence to an extent sufficient to enable him to guide the medical witness into that path most likely to lead to truth; and in summing up the evidence, to disrobe it of every thing not de-

monstrative; and to make it, if obscured with terms of art, plain and intelligible to ordinary apprehensions.\*

To return from this digression.—I would, also, recall to the mind of the young practitioner that, in the event of a trial, his evidence is required in an open court of justice, that the eyes of the world are upon him; and that, whatever may be the extent of his acquirements, he is presumed to be an expert witness, by whose testimony the court will be guided in forming its decision; consequently, that no opinions should be advanced that cannot be supported by substantial reasons. He should be aware that medical witnesses are always strictly interrogated by counsel as to the grounds of their assertions; he should therefore inform himself what grounds have been regarded as tenable, and what have been rejected as unsatisfactory. He should know as much of the law of evidence as will enable him to penetrate the intentions of counsel to mislead him; to foresee the consequences of his answers; to have some idea, beforehand, of the nature of the questions which he will be required to answer, and to prepare himself accordingly. It is on account of these duties of the medical jurist, and on many others, that a medical man requires some knowledge of law in the conduct of his profession; and by possessing this, he may often serve the cause of justice by suggesting inquiries to be made by

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\* This reasoning is well illustrated by the following extract from Donellan's trial for the murder of Sir Theodosius Bough-ton:—The examination of Dr. Rattray.

Did you set your name to your examination before the Coroner?  
Yes, I did.

Wherein the appearances of the deceased upon your post mortem examination of the body are described?

They are not particularly described, there is *something* said *about* the stomach and bowels.

For what purpose then did you attend before the Coroner?

I did not know it was necessary before a Coroner's jury to enter into particulars; I was quite a *novice* in the business.

the attorney before a trial. In many instances, his acquaintance with the legal object of the enquiry will greatly facilitate the exercise of his duty as a witness: for example, in the case of lunacy, whether it be that lunacy which exempts from criminal responsibility; or which incapacitates an individual from the management of his own affairs: without some knowledge on these points, the evidence of the medical practitioner will not only be defective; but he will scarcely be able to understand the questions that may be asked.

In addressing the Law Student, and the young Barrister, I would impress upon him the opinion, that, without some knowledge of medical science he cannot do justice to his client: by possessing it, he will be enabled to probe the skill of medical witnesses; to unmask ignorance; to ascertain what ought to be stated; to detect false representations; to supply neglect, or correct omissions; and thus fully to elicit truth: I am informed, that Chief Justice Dallas was particularly conversant with Toxicology, and frequently quoted Orfila on the bench: and it is well known that Baron Garrow attended lectures on anatomy with a view to his forensic duties. Scarce an assizes happens, indeed, without trials, in which medical witnesses are examined; and the courts are often imposed upon by ignorant practitioners, from the absence of that knowledge by which misrepresentation or fraud would be instantly detected.

Seeing that such duties are required both from the medical practitioner and the lawyer, let us now enquire what qualifications are requisite for the proper performance of these respective functions? Let us first examine those of the medical witness.

The chief qualification of the medical man, when placed in the witness box, independent of professional attainments, is a sacred love of truth; a determination to sacrifice for it every opinion, theory, or hypothesis; and to admit nothing as proof which is not, as I have already stated, capable of demonstration. He must be certain, however,

of the accuracy of the demonstration, and that he has not been misled by illusions of the senses ; for nothing is so fallacious as impressions made upon our organs of sense. To illustrate this remark by a few familiar examples :—the water which feels hot to one of our hands may appear cold to the other, the impression depending on the state of the organ : the iridescent colours which glitter on a soap-bubble are merely the result of its relative position to the eye of the observer ; a stick placed in water appears bent ; a spot on a sheet of paper, when a piece of Iceland spar is interposed between it and the eye, has the semblance of two spots : and, if the nostrils be closed, and the breath held, when we are chewing cinnamon, no sensation of its aromatic flavour is perceived, and we distinguish no difference between it and a morsel of tasteless wood. As in thus forming our opinions of external impressions we are so much at the mercy of circumstances, the medical jurist must carefully guard against forming conclusions from superficial views : he must also endeavour to free himself from all prejudices of opinion, whether imposed upon him by others, or hastily adopted from his own imperfect observations ; and he must be ready to resign those which he has long depended upon, when the weight of experience is shown to be against them. Another qualification of great importance is patience, in order to examine carefully every fact, and to suspend judgment until every circumstance connected with the case is clearly and satisfactorily proved : no fact capable of being noted should be omitted, for it is impossible to determine how much the most apparently trivial circumstance may bear upon the conclusion ; and the omission of one particular may prove fatal even when the record is otherwise true and faithful. It is of the utmost importance, therefore, to observe correctly ; for, to borrow the language of a highly distinguished natural philosopher, Mr. John Frederick Herschell, “ as our senses are the only inlets by which we receive impressions of facts, we must take care, in observing, “ to have them all in activity, and to let nothing escape

“notice that affects any one of them.”\* No indecision and looseness of facts are admissible in enquiries which involve the characters and lives of our fellow-mortals. A third qualification is secresy, for without the power of keeping a secret, the medical witness may inflict unintentionally the utmost misery upon individuals; and in giving evidence, whether in civil or criminal cases, the witness should never disclose more “than categorically meets the question of the counsel.”† A fourth qualification is a calm, philosophical temper; such a command of himself as will prevent him from being easily ruffled, will enable him to remain cool and collected during the undermining of cross-examination; and secure him from being pressed beyond his resources by a clever barrister. Many instances might be brought forward to illustrate the evil arising from the defect of this self-possession in otherwise able and well-informed medical men, whose dread, under examination in courts, have rendered them such inefficient witnesses, that the whole of their testimony has occasionally been struck out as an impertinent waste of time. Were the effects of this always favourable to the cause of innocence, it might be overlooked; but the reverse is often the case: the ingenuity of a counsel is stimulated by the badness of his cause; and the triumph of rescuing his client from merited punishment, is too frequently his proudest boast. I have heard it stated that an eminent barrister, obtained the acquittal of a murderer, who, previous to trial, had acknowledged to him his guilt; and that this acquittal arose from his address in the cross-examination of the principal medical witness. This gentleman, who at first gave such a clear and distinct testimony as would have convicted the prisoner, was rendered afterwards, so confused, by impatience and dread under his cross-exami-

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\* Discourse on the Study of Nat. Philosophy, by J. F. W. Herschel, Esq. A.M. p. 120.

† Haslam.

nation, as to lose the power of comparing one part of his testimony with another: his answers to pointed and searching questions well calculated to mislead, were unsatisfactory and even contradictory of his former testimony, which was thus so much weakened as to render it of no value in the summing-up of the judge, and in determining the verdict of the jury. In this instance, the decision of the court was in strict conformity with the evidence; a verdict of guilty could not have been conscientiously delivered; and thus, from the want of self-possession in a medical witness, the acuteness of a counsel sent again into society a criminal, whose violation of the law was veiled by the sophistry of legal acuteness, employed under the conviction that his client had perpetrated murder.

To give a distinct idea of the professional attainments necessary to form an able Medical Jurist, I will suppose two cases of legal inquiry: one of death when poisoning is suspected; the other of reputed insanity, in which the decision of the physician is either to protect an individual in preserving the position which he occupies in society, or to seclude him from it, and place him under that restraint which marks him as one whose reason is clouded, who no longer is to be regarded as a responsible agent, and who is unfit to associate with rational men.

In the first instance, the charge of poisoning may be founded only upon presumptive evidence, no poison having been found, and a deep obscurity involving the whole circumstances of dissolution; yet the medical practitioner is called upon to pronounce whether the presumption be possible, probable, or certain, or the reverse; or, the poisonous substance may have been found, and the presumption being thus strengthened, the medical jurist is required to ascertain the nature of the poison, to determine in what quantity and under what circumstances it had been administered and had proved fatal.

When no poison can be found, the opinion to be given respecting the cause of death must rest upon the history

of the symptoms, and the inspection of the body. In inquiring into the former, he must determine whether symptoms described to him by credible witnesses differ, and in what particulars, from those of natural diseases; he must ascertain the suddenness of their appearance, and the state of the person at the moment of their accession; whether they appeared soon after taking food, drink, or medicine; the regularity of their increase; and whether this was attended with intermissions and exacerbations. It is scarcely necessary to say, that such points can be satisfactorily determined by those only who are familiar with the symptoms of natural diseases. In this investigation, physiognomical characters must not be overlooked; the bulk, stature, muscular powers, and age of the deceased, should be ascertained; and also his ordinary habits. Apoplexy, gusts of passion, diseases of the heart, cholera, and some other affections of the intestinal canal, make their attack as suddenly; the course of the symptoms is as rapid, uninterrupted, and uniform, as in cases of poisoning; and, therefore, the distinctive characters of death caused by an unknown poison are obscure. Still to the skilful and experienced observer, there are features of distinction that render the effects of poisoning sufficiently obvious, to lead to the formation of a correct diagnosis. The period of attack, in some diseases, is often after a meal; and unless there is moral evidence of the deceased having lived on bad terms with some one who had the power of administering poison in his food, much difficulty must always attend the formation of any opinion grounded on the period of the attack. I was once called to examine the body of a young boy who died immediately after eating a hearty dinner, and could find no mode of accounting for death, except from the over-distention of the stomach, in consequence too large a meal.

If no satisfactory evidence can be obtained from the review of the symptoms, the next step is the anatomical dissection of the body: but here, in cases of death from

the influence of some poisons, appearances present themselves not differing from those caused by natural disease. Inflammation of the coats of the stomach and intestinal canal; congestions of the vessels of the brain and those of the lungs, appear as frequently the result of natural disease as of poisons; but to the well-educated medical jurist, the careful inspection of the body by dissection, conjoined with the history of the case and the situation in which the body was found, may furnish not only probable, but almost decisive evidence, which might be wholly neglected, or be left unobserved, by one unaccustomed to investigations under the knife.\* It is true that the appearances in certain cases of poisoning cannot be mistaken; as, for instance, the pulpy state of the stomach when oxalic acid has been swallowed; and the dissolution of the mucous, nervous, and muscular coats, whilst the peritoneum remains little affected, when arsenic is the poison, leave no room for doubt; but still the recognition of these appearances requires a degree of correct anatomical knowledge. When death has resulted from a wound instead of poison; a still more intimate acquaintance with anatomy is requisite; the aid of surgery is also to be demanded; and the medical inquirer finds himself engaged in problems, relating to the fall of bodies, the effect of blows, the course of balls, and other circumstances which can only be solved by an acquaintance with natural philosophy. In numerous instances a knowledge of midwifery is, also, requisite:—cases have occurred in which women have been executed four or five months gone with child, although they have

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\* In the trial of Donnal for the poisoning of his mother-in-law at Launceston, much of the difficulty of the case arose from the conflicting testimony of medical men, as to whether the appearances of the deceased upon a post mortem examination could be ascribed to cholera. Upon Donellan's trial for the poisoning of Sir Theodosius Boughton, conflicting testimony was given, as to whether the symptoms of the deceased might not have been occasioned by apoplexy or epilepsy.

been examined by female midwives, or twelve matrons, as the law directs. Riolan has recorded one case of this description in his anatomy.

Let us now suppose that in a case of death from poisoning, the poison has been found; in which case the evidence must be grounded upon chemical knowledge;—either the remains of the fatal potion, or the matter vomited, or the contents of the stomach, must be submitted to analysis. Need I state, gentlemen, that the nature of such processes, their delicacy, and the mode of rendering them conclusive, require qualifications and information of which few practitioners who have not particularly attended to Toxicological investigations can boast? But the evidence of chemical analysis is still inconclusive, if the physiological effects of the poison on the system do not correspond with those which experience has ascertained to belong to this particular poison. If it be a vegetable poison, the aid of Botany must be resorted to; if an animal poison, that of Zoology: the poison may have been given as a medicine, thence *Materia Medica* must determine the extent of the dose, its effects in different states of the body; how far its influence may have been augmented by combination with other substances;—by idiosyncrasy and other circumstances, before the medical probability can be regarded of a description calculated to leave no doubt on the mind that poisoning has been perpetrated.

If this description of the duties of a medical man in the investigation of the causes of sudden death from presumed or actual poisoning be correct, the extent of qualification necessary to add the weight of authority to his opinion is obvious: I cannot express myself on this point, in language more correct and forcible than that employed by Dr. Christison in the preface to his able and instructive *Treatise on Poisoning*. “Since so much appears to depend on him,” says Dr. Christison, speaking of the Toxicologist, “it is fortunate that his resources are in a corresponding degree extensive. These resources are

“ derived from the sciences of Semiology, Pathology, Che-  
 “ mistry and Physiology. By means of the first, he ascer-  
 “ tains the differences between the symptoms of poisoning  
 “ and natural disease ; by the second, he distinguishes  
 “ the appearances in the dead body indicative of death by  
 “ poison from those of natural death : the third enables  
 “ him to discover foreign substances of a deleterious na-  
 “ ture in the body and elsewhere ; and the fourth instructs  
 “ him how to determine the value of evidence from the  
 “ accidental effects of suspected substances on domestic  
 “ animals, as well as to apply express experiments on ani-  
 “ mals to settle by analogy doubtful questions relative to  
 “ the operation of poisons on man. The object of Toxic-  
 “ logy, then, as a branch of Medical Jurisprudence, is to  
 “ embody all this information into one science. It ranges  
 “ over the vast field of medical learning, and draws toge-  
 “ ther, from a variety of quarters, facts and principles  
 “ which are seldom at any other time viewed in combina-  
 “ tion. The resources of each science are thus made to  
 “ try the accuracy and supply the defects of the others ;  
 “ and the whole mass of knowledge is brought to bear in  
 “ one direction, with a force and precision worthy of its  
 “ objects, the detection of crime and the vindication of  
 “ innocence.” \*

Since cases of this description require so extensive a  
 range of information in the medical witness, to carry con-  
 viction to the jury and the judge ; how requisite is the  
 possession of the highest education to the medical juror  
 when he is called to decide on cases of insanity. He  
 does not, now, appear as a *witness* before the coroner or in  
 a criminal court ; but, as a judge, on whose certificate an  
 individual is immured in a mad-house ; cut off from friends  
 and society, and placed under circumstances from which  
 death might, truly, be hailed as a liberator. He has not  
 only to examine into the condition of the bodily health,

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\* Treatise on Poisons, by R. Christison, M.D. Preface, p. 7.

but to determine how far the intellect is affected by its state ; whether the aberration of reason be real or feigned ; be capable of cure or fixed for life. In some cases in which the insanity is displayed only on particular points, and is perceptible in ordinary conversation, the physician requires not only to be well acquainted with the nature of insanity ; but to possess that general information, which will enable him, in his examination of the state of the intellectual functions, to vary the conversation, and to keep pace with the knowledge and acquirements of his patient. When this cannot be done, nothing is more difficult than to ascertain a case of lunacy.

I had occasion to see the necessity of a medical man employing this test strikingly illustrated in the case of a patient whom I was requested to visit, in order to enable his friends to confine him in a lunatic asylum. This gentleman was possessed of considerable genius and of many literary and scientific acquirements : he was a poet, an excellent prose writer, a natural philosopher, a botanist, geologist and chemist, and a man of extensive classical and general reading. As several physicians had seen him and had refused to give a certificate of insanity, I was somewhat reluctant to undertake the examination of the case, but having assented to the wishes of his friends, I went to breakfast with my patient. On entering the drawing-room of his lodgings, I was struck with the symptoms of destruction which various pieces of the furniture displayed, the looking-glass over the chimney piece was split from one corner to the other ; two of the chairs were so broken as to be nearly without backs ; and one half of a pannel was defective in the folding doors, that led to his sleeping apartment, which was the back drawing-room. My patient had not yet made his appearance ; but his relation who had accompanied me to the house, soon introduced him to me, and making an excuse of a prior engagement which had been previously agreed upon, left me to enjoy a tête à tête with the supposed madman.

As I had previously resolved, with myself, to change the subject of conversation as frequently as possible, many interesting subjects were discussed during breakfast, without any symptom of insanity being displayed by my host, whose agreeable and affable manners, gentlemanly deportment, and extensive knowledge, were my admiration; and I scarcely recollect that I ever spent two more instructive hours than on this occasion. My judgment was made up regarding the sanity as far as this could be ascertained by conversation; but the state of the room and furniture, and the history of the case puzzled and unsettled the decision which I was prepared to deliver; when I accidentally touched upon the subject of Magnetism. In a second, the diseased state of the poor gentleman's mind displayed itself, and left no doubt of his insanity. He informed me that a respectable surgeon in London, whom he named, had made a cloak lined with needles, with which, by means of supernatural agency, he nightly enveloped him, and then, having laid him upon his bed, left him in great torment. For some time, he not only suffered from this cause, but during his hours of torture, this surgeon, also, contrived to introduce into the bed-room a beautiful female, whose deportment added greatly to his sufferings. He then added—"but I have at length defeated the machinations of the scoundrel; for I have made a magnetic cloak, which, after rolling about for some time on the bed, I contrive to put over the cloak of needles, and, by this means, relieve myself of this part of my torture." On taking my leave I immediately granted my certificate for the confinement of the patient.

In this instance, the chord which was out of tune, and which threw the harmony of the whole mind into discord, had remained untouched by those who had preceded me; and if it had not been accidentally struck by me, I should have retired with a conviction of the sanity of my patient in the same manner as my predecessors in

the enquiry had done ; and no certificate could have been legally granted to confine the lunatic, although the delapidated condition of the furniture in his apartment, and the turbulence of his conduct at night left little doubt of his insanity. It may be questioned whether, in this case, the individual was a proper subject for confinement? The derangement was confined to the subject of magnetism ; on all other matters the patient was sane : but the result of this monomania was a fixed determination to take the life of his supposed tormentor ; and, consequently, he required to be placed under restraint.\* In ordinary circumstances however, the accomplished physician will be able to detect in passing conversation the prominent features of the malady : the morbid ideas are seen as it were, in the shade, until circumstances occur to place

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\* Cases of this description are peculiarly of a medico-legal character. Lord Erskine in his defence of Hatfield for high treason, in shooting at the king, says,—“ In all the cases which have filled Westminster Hall with the most complicated considerations, the lunatics and other insane persons, who have been the subjects of them, have not only had *memory*, in my sense of the expression (alluding to a definition of Lord Coke, which shews the small light which the legal profession in his day had derived from medical knowledge), they have not only had the most perfect knowledge and recollection of all the relations they stood in towards others, and of the acts and circumstances of their lives, but have, in general, been remarkable for subtlety and acuteness. Defects in their reasonings have seldom been traceable, the disease consisting in the delusive sources of thought : all their deductions within the scope of the malady, being founded on the immoveable assumption of matters as realities, either without any foundation whatsoever, or so distorted and disfigured by fancy, as to be almost nearly the same thing as their creation. In these cases, which are those which usually become subjects of judicial enquiry, Reason is not driven from her seat, but Distraction sits down upon it along with her, holds her, trembling, upon it, and frightens her from her propriety.”

them in prominent and bold relief ; thence one or at most two subjects, frequently recurring, are the obvious symptoms of the delirium which constitutes the disease. This is peculiarly striking, when madness is connected with religious faith :

“ ————— You may as well  
 Forbid the sea for to obey the moon,  
 As by an oath remove, or counsel shake  
 The fabric of his folly, whose foundation  
 Is pil'd upon his faith.”\*

It is this belief which physiologically constitutes his disorder ; and, consequently, as matters of religious faith sink more deeply into the mind than any other subjects of contemplation, they are more easily detected, and thence the scrutiny required to detect religious insanity, is less severe than that necessary for the detection of any other kind.

In criminal courts, and on commissions of enquiry *de re lunatico*, the erroneous ideas which legal men often conceive of insanity, have produced effects connected with the examination of medical witnesses by no means creditable to the profession. They conceive insanity to be a purely mental affection, than which no opinion is so erroneous ; and this error is the more surprising from the well known influence of a deranged state of mind on the body : —

“ ————— When the mind's free  
 The body's delicate ; the tempest in my mind  
 Doth from my senses take all feeling else  
 Save what beats there.”†

Definitions are, also, improperly expected from medical witnesses, the attempt to form them invariably failing. This remark is strikingly illustrated in the Historical Record of the first enquiry into the state of mind of King George

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\* Winter's Tale.

† Lear.

the Third: on that occasion, one physician only, the late Dr. Reynolds, gave a correct and intelligible definition of lunacy. The chief object of every medical enquiry into the state of an insane person, is to ascertain the actual condition of a patient; the limits of his madness and on what topics he is insane: and to sound the depth of the reason which he still possesses. It has been justly remarked by an able writer on insanity, Dr. Haslam, that, "as it would be difficult, in a person of the soundest mind, to detect the succession of thoughts, tracing that which was most remote to that which was proximate to the action; it can less be expected that the medical evidence should be capable of noting the consecutive irregularities of a disordered intellect."

It is unnecessary to extend my remarks on this part of my subject: they apply both to the medical and the legal practitioner. Furnished with the information which lectures on Medical Jurisprudence ought to supply, the lawyer will be better able, than in the present state of the bar, to institute appropriate enquiries for the discovery of truth, and to determine what the medical witness ought to supply; so as to leave neither "unsounded the depths of his intelligence," nor to press him beyond his resources. Furnished with the same information, and made aware of what are the usual leading points of enquiry in legal investigations regarding insanity, the medical practitioner will feel the necessity of directing his attention to these points; will come into court prepared; he will be enabled to deliver his opinions with authority; to convey them in perspicuous language; and to avoid falling into baseless conjectures and absurd hypotheses. Thus, whilst standing upon the firm ground of his knowledge, he may confidently defy all attempts to circumscribe his skill by ignorance; to baffle his reason by sophistry; to confuse him by dragging him into the trackless wastes of Metaphysics; and to deter him from maintaining his opinions by the dread

of obloquy. But, if the concentration of his medical knowledge produce these happy effects, let us now briefly enquire what advantage the medical pupil is to expect from the legal portion of this course.

With respect to medical evidence, there are many points of great importance to the medical witness. There are, for instance, various rules respecting the manner in which a witness may fortify his memory by means of memoranda, from want of attention to which, the medical witness may on the one hand falter in the detail of facts which have occurred long since, and on the other hand may receive unpleasant checks in court, as attempting to introduce an illegal mode of proof.

Medical men are often among the earliest persons called to be present at transactions which become the subject of legal trials; and besides the immediate medical facts to which their attention is more particularly directed, there are generally many collateral ones to which they omit to pay attention from ignorance of their bearing, which an acquaintance with law would teach them. Hence they pass in courts as very unobservant characters, and generally fail in furthering the detection of guilt and the vindication of innocence in an effective manner: it is, therefore, expedient that the medical man should know something of the legal nature of presumptive evidence, admissions, confessions and dying declarations: — not only should the attention of the parties present be alive to such matters, but they should take care not to obtain such evidence in a manner which a court of justice would deem improper.

Suppose a medical man be summoned on a trial for infanticide, should he not be able to speak to the direct facts presented to him? Should he not know what enquiries are usually made, both by the prisoner's and the prosecutor's counsel on such occasions? what opinions are referred to?—what plausible defences are set up? Should he not be

well acquainted with the legal opinions respecting the *hydrostatic test*, and the *umbilical ligature*, and prepared to support his opinions on the probability of the various modes of death likely to be suggested? Such legal information as this Course is intended to convey is useful, interesting, easily acquired, and easily retained, on account of associations: — in fact it is calculated to associate with medical truths a number of legal results, deeply affecting a person's own situation in society, and his circumstances relatively to others. This also makes the medical truths, connected with the legal ones, lay a faster hold on the memory. Hence are suggested many medical enquiries upon which indecision or contradiction has been exhibited in courts of justice. The same remark applies to the careful noting of medical facts on which disputes may arise in courts. Who, for example, would not attend with greater liveliness to all facts relative to drowned persons, from having read Cowper's trial? or of persons poisoned with laurel water, from having read Donellan's? or, who would not examine with greater scrupulosity the phenomena of menstruation and utero-gestation, from having attended to the medical evidence in the Gardiner peerage? How much may be expected from the mutual light which the two sciences of Medicine and Law shed upon each other!

To satisfy those whom these remarks may leave still unconvinced, I might bring before you the medical practitioner who has never been taught to apply the various knowledge which he has acquired so as to bear upon medico-legal matters, placed in the witness-box under the examination of an acute and lively barrister, the interest of whose client demands from him a severity of investigation, which, to borrow the words of an author I have already quoted, “perplexes the theories and more frequently “kindles the irritable feelings of the medical witness.” Imagine the state of such a witness: paint him, in your mind's eye, writhing under a cross-examination; cursing

himself inwardly for being unprepared ; diving, in vain, into the profundity of his memory, rendered more oblivious by the coolness and triumphant confidence of his examiner to destroy the effect of his evidence, in finding him thrown off his guard ; wishing he had his note books ; or, if he have them, finding nothing in them but inadmissible evidence. Compare the state of this man with that of another, fully aware of the mode of applying his information in such a situation ; acquainted with the nature of courts of justice, with the proper demeanor, duties and privileges of a witness :—is there, for an instant, any reason for doubting on which side lies the personal comfort and respectability of the witness ? Which possesses the most enviable state of mind ? Can there be any doubt, independent of these advantages to the witness himself, of the enlarged means of serving the purposes of justice by an union of medical and legal knowledge ? Can any one deny the additional interest arising in the study of Medical Jurisprudence, by affording to the pupil the means of blending the study of the two ; by the instructions being delivered, on each separate branch of science, by an individual supposed to be fully versed in his subject.\*

It only remains, Gentlemen, for me to say a few words on the manner in which we mean to conduct this Course of Lectures.

In the Syllabus of the Course, which has been published, the arrangement of the subjects is such that we shall be insensibly led from the consideration of those questions which are most general, and which involve discussions most liable to be affected by opinion, to those in which the judgment to be delivered is grounded upon a more fixed and certain basis. We trust, also, that

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\* It is the first time in this country that the subject has been treated of in lectures by any barrister.

it will be admitted as forming a connected chain, no link of which can be taken away without injury to the whole. In treating each subject, I will endeavour, for the sake of those gentlemen of the law who may honour me with their attendance, to make the anatomical descriptions and the physiological discussions as intelligible as possible; and to illustrate both by the preparations, specimens of natural history, models, drawings, and diagrams which the museums of this establishment so amply supply. In the toxicological division of the course, every poison will be described, its general chemical characters and its influence on the animal economy briefly detailed; and the methods of detecting its presence, both in its simple state and in combination, taught by the actual experiments necessary in such enquiries. The application of the knowledge, which I will, thus endeavour to communicate, to the ordinary business of life, in legal enquiries, and the law of each subject, will be entered into by my learned colleague, who intends also to illustrate his portion of the course with cases bearing directly upon the points under consideration. I consider it unnecessary to discuss the advantages of such a plan.

In pursuing this method of communicating our instructions, I can assure you, on my own part; and I may venture to give you a similar assurance on the part of my colleague, that our efforts will be solely directed to convey, both to the medical and the legal student, that medico-legal information which is useful and essential in the exercise of both professions. But, having, in the execution of our intentions, exerted ourselves to the utmost of our abilities, and in a degree equal to the time which has been allowed us to prepare ourselves for our task, we must, still, look for your indulgence under the disadvantages which circumstances have imposed upon us. We hope, nevertheless, that our instructions will enable the barrister to do more justice to his medical brother, without compromising the interests of his client: that they will enable the medical witness to come out of court with a

clear unsullied conscience, such as he may not dread to display at that tribunal before which he shall be one day arraigned, where all motives are unveiled, and where, although Mercy be ever present, yet, divine Purity, eternal Truth and equal Justice preside.

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